ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION I

CA07-987

January 30, 2008

TIFFANY RATLIFF
APPELLANT

v.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
APPELLEE

AN APPEAL FROM GARLAND COUNTY CIRCUIT COURT
[NO. JV2006-323A]

HONORABLE VICKI S. COOK, CIRCUIT JUDGE

AFFIRMED

Appellant Tiffany Ratliff appeals from an order terminating her parental rights to DKR (born 9/8/99), DR (born 9/13/00), and AR (born 10/6/03). She argues that there was insufficient evidence to support the termination decision. We affirm.

On April 25, 2006, the Arkansas Department of Human Services (DHS) took a seventy-two-hour hold on the three juveniles after learning that DKR and DR had been consistently tardy or absent from school and that their parents, Tiffany and Dustin Ratliff, failed to provide transportation and supervision when the children were discharged from school. DHS also received a report that DKR's mouth was bleeding, and it was not known whether he had received medical treatment. Probable cause was found for the removal, and the children were adjudicated dependent-neglected on June 5, 2006. The parents were directed to follow all court orders and the DHS case plan; cooperate with the DHS

caseworker; submit to random drug tests; remain clean and sober; complete parenting classes; prove stable housing and employment; and submit to family and individual counseling. The goal of the case was reunification.

The court's first review order in July 2006 found the parents in substantial compliance with the case plan and court orders, but subsequent reviews in September and November 2006 noted their lack of compliance. DHS reports from this time indicate that appellant was employed but had not provided verification of stable and adequate housing or class attendance.

A permanency planning hearing was held on March 20, 2007. A DHS report prepared in connection with the hearing stated that appellant was employed; had obtained a two-bedroom apartment on February 10, 2007; had maintained contact with the case worker; and had weekly visits with the children. Appellant provided verification of attending some classes but not parenting classes. Following the hearing, the circuit judge found that the parents had not complied with the case plan or court orders and changed the goal of the case to termination of parental rights.

A termination hearing was held on May 31, 2007. CASA volunteer Jim Owens testified that the parents had not obtained stable housing or employment; had not maintained communication with the CASA advocates as required; had not participated in family counseling; and had not paid child support as ordered following one of the review hearings. He said that appellant had several recent job changes and that her condition was actually becoming less stable. Owens further said that this was the third time that the parents had

been involved with DHS and the second time that one of their children had been removed from the home—DKR was removed in November 1999 because he had scratches on his face and bruises on his throat and feet. He was returned to his parents in February 2001. Owens also spoke of an incident in which appellant was injured in an altercation on a Wal-Mart parking lot at 12:30 a.m. on February 20, 2007. Finally, he testified that the children had "flourished" in their current placement and that appellant was not affectionate with the children during visitations. He recommended termination of parental rights.

Family service worker Crystalle Jones testified that appellant had worked at three different jobs since beginning employment in August 2006. She also said that appellant had obtained an apartment of her own, but that was a recent development, occurring in February 2007. Jones testified further that an unsupervised overnight visit in August 2006 was stopped because the Ratliffs were fighting and the police were called. Additionally, Jones said, during some visitations, she had to remind appellant to help the children with their homework and get them something to eat.

On cross-examination, Jones testified that appellant had completed parenting classes and had not been without a job for any significant period of time since August 2006. She also said, after some confusion, that DHS had arranged family counseling for appellant but did not refer appellant for individual counseling, although the adjudication order directed that both parents submit to counseling. Jones viewed appellant's psychological evaluation and agreed with its conclusion that there was nothing to indicate she was an inappropriate parent.

Appellant testified that she had lived in three or four different places since the case began. She also said that she worked at Delta Plastics for several months beginning in August 2006, but since March 2007 she had worked for a Super 8 motel, Embassy Suites, and the Super 8 again. She admitted that she had worked at IHOP in May 2006 and was terminated for credit card fraud. She explained that the fight at Wal-Mart took place when a group of people began yelling and threatening her and her friends and began beating up one of her friends. She "pushed toward them," was hit, and ended up being hospitalized. Regarding counseling, appellant said that she had asked Crystalle Jones about it but never heard back from her. She said she attended one session of family counseling but another was not scheduled. Appellant denied that she had failed to pay child support and denied that she was not affectionate with the children.

The children's foster parent, Shauna Allen, testified that the children had made major progress in foster care. Adoption specialist Gale Hovell testified that the children were adoptable.

Following the hearing, the circuit court terminated appellant's parental rights.[1] The court found that termination was in the children's best interest; that the children's return to the parental home could not be accomplished within a reasonable amount of time when viewed from the children's perspective; that the children were adoptable; that DHS made

[1] Dustin Ratliff's parental rights were also terminated, as were the parental rights of John Berry, whom some orders listed as the father of AR. These men are not parties to this appeal.

reasonable efforts to reunite the family; and that the following grounds were proved: 1) the children were adjudicated dependent-neglected and had continued out of the parent's custody for twelve months or more and, despite a meaningful effort by DHS to rehabilitate the parent and correct the conditions that caused removal, those conditions have not been remedied by the parent, *see* Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(*a*) (Supp. 2007); 2) other factors or issues arose subsequent to the filing of the original dependency-neglect petition that demonstrate that return of the children to parental custody is contrary to the children's health, safety, or welfare and that, despite the offer of appropriate family services, the parent has manifested the incapacity or indifference to remedy the subsequent issues or factors or rehabilitate their circumstances that prevent return of the children to the parent's custody. *See* Ark. Code Ann. § 9-27-341(b)(3)(B)(vii)(*a*) (Supp. 2007). Appellant appeals from the termination order.

Although termination of parental rights is an extreme remedy and in derogation of the natural rights of parents, parental rights will not be enforced to the detriment or destruction of the health and well-being of the child. *Sowell v. Arkansas Department of Human Services*, 96 Ark. App. 325, ___ S.W.3d ___ (2006). Grounds for termination of parental rights must be proven by clear and convincing evidence. *Id*. When the burden of proving a disputed fact is by "clear and convincing evidence," the question on appeal is whether the trial court's finding that the disputed fact was proved by clear and convincing evidence is clearly erroneous, giving due regard to the opportunity of the trial court to judge the credibility of the witnesses. *Id*.

Appellant argues that DHS did not use reasonable efforts to reunite her with her children because DHS failed to provide her with individual counseling. However, she admits that, other than some depression, she had "no psychological impediments to regaining custody of her children." Further, despite appellant's arguments to the contrary, her failure to attend individual counseling had no significant bearing on the court's termination decision. Rather, the court noted appellant's failure to have a stable residence or stable income and her failure to pay child support. We would also note evidence of her failure to attend family counseling, her involvement in a late-night altercation in the Wal-Mart parking lot, and her not obtaining her own apartment until about nine or ten months into the case. Evidence that a parent begins to make improvement as termination becomes more imminent will not outweigh other evidence demonstrating a failure to comply and to remedy the situation that caused the children to be removed in the first place. *See Lewis v. Arkansas Department of Human Services*, 364 Ark. 243, 217 S.W.3d 788 (2005); *Camarillo-Cox v. Arkansas Department of Human Services*, 360 Ark. 340, 201 S.W.3d 391 (2005). These factors indicate a continued lack of stability by appellant and a continued refusal to remedy her situation, despite having over twelve months to do so.

The intent of our termination statutes is to provide permanency in a juvenile's life in all instances where the return of a juvenile to the family home is contrary to the juvenile's health, safety, or welfare and it appears from the evidence that a return to the family home cannot be accomplished in a reasonable period of time, as viewed from the juvenile's perspective. *See* Ark. Code Ann. § 9-27-341(a)(3) (Supp. 2007). *See also Trout v. Arkansas*

*Department of Human Services*, 359 Ark. 283, 197 S.W.3d 486 (2004). The trial court's termination order serves that purpose and is not clearly erroneous.

Affirmed.

GLADWIN and BAKER, JJ., agree.